

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6167**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TRACEY LEE HAIRSTON, a/k/a Uhms,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Charles H. Haden II, District Judge. (CR-99-198; CA-03-345-2)

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Submitted: May 26, 2004

Decided: June 18, 2004

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Before WIDENER, MICHAEL, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Tracey Lee Hairston, Appellant Pro Se. Monica Kaminski Schwartz, OFFICE OF THE UNITED STATES ATTORNEY, Ray McVeigh Shepard, Special Assistant United States Attorney, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Tracey Lee Hairston seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his petition under 28 U.S.C. § 2254 (2000). We have independently reviewed the record and conclude that Hairston has not made a substantial showing of the denial of a constitutional right. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Accordingly, we deny Hairston's motion for a certificate of appealability and dismiss the appeal. See 28 U.S.C. § 2253(c) (2000). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED